

Application No.: 10/521,081
Reply to Office Action of July 31, 2007
Amendment and Response dated December 27, 2007
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B. Remarks/Arguments:

Introduction

Claims 33 and 35-37 have been judged to contain allowable subject matter if rewritten in independent form. The applicants thank the examiner for this determination.

Claim 24 has been amended to, *inter alia*, include the limitations of claims 25 and 27. Claims 25 and 27 have been canceled. Claims 28-33 been amended for, *inter alia*, antecedent basis following the amendments to claim 24. Claim 40 has been amended to, *inter alia*, include the limitations of claims 24, 25 and 27 and to further describe that all of the exposed surfaces of the samples lie in a single plane. Support for this later limitation may be found in the specification at page 6, lines 23-25. Claims 41-43 have been amended for, *inter alia*, antecedent basis. Claims 46 and 47 have been added. Support for claim 46 may be found in claims 24, 25, 27, 33, 34, 35, 36 and 38. Support for claim 47 may be found in claim 32. No new matter is introduced with these amendments. Entry of the claims amendments is respectfully requested.

Claim Objections

Claims 24, 32, 40-42 and 44 were objected to as having minor informalities. It is respectfully submitted that the claim amendments submitted herewith obviate the concerns raised by the examiner. Reconsideration and withdrawal of the claim objections are respectfully requested.

Section 102 Rejections

Claims 24-30, 34, 40, 43 and 45 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 5,772,967 to Wannlund (hereinafter "Wannlund"). Applicants respectfully traverse.

Wannlund discloses a test apparatus having multiple reaction wells, for controllably mixing reactants. The shown test apparatus of Wannlund includes an upper plate 24 and a lower plate 26 each having a plurality of test wells 28 respectively forming upper and lower reaction cups 30, 32. (See, Wannlund, Fig 3). By applying an increased internal pressure within an upper reaction cup, a liquid held in that cup can be transported to the lower reaction cup via an orifice in its bottom (Wannlund, column 9, lines 6-22). Thus the liquid from the upper cup can react with a liquid held in the lower cup. The orifice may be sealed with a removable plug 42.

The Examiner seems to interpret plate 26 as a compacting means for compacting samples held in the holding body 24. (See, pages 3- 4 of the O A.). The drawings and text of Wannlund indicate that both plates 24 and 26 in operation are fixed in relation to each other for providing reaction cups. For example, Wannlund discloses the use of diaphragms 84 to compress the air in the upper reaction cups 30. A sufficient downward force enacted upon the diaphragms 84 compresses the air inside the diaphragms 84 and the upper reaction cups 30, to pop out the grease plug 42 from the bottom of the orifice 40, so that liquid in the upper reaction cups 30 can flow through the orifice 40 and into the lower reaction cups 32. (Wannlund, column 11, lines 28-45). Wannlund also notes that an increased internal pressure within the upper reaction cup 30 causes the plug 42 to be ejected. (Wannlund, column 9, lines 9-12). Further, instead of using a plug, the liquid in Wannlund may also be contained within the reaction cup by dimensioning the opening in the bottom of the orifice such that the surface tension of the liquid is sufficient to prevent the liquid from flowing through the orifice.

Thus, the upper reaction cups of Wannlund are not designed to retain the liquid reactants when the pressure inside the reaction cups is increased by the diaphragms. The diaphragms are designed for moving the liquid reactants from the upper reaction cup 30 into the lower reaction cup 32 (Wannlund, column 11, lines 42-45), and not as a compacting means for compacting solid state samples filled in bores of a sample holding body.

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Therefore, independent claim 24 relating to a system, and independent claim 40 relating to the method, as well as all claims dependent therefrom, are, novel over Wannlund. Reconsideration and withdrawal of the section 102(b) rejections are respectfully requested.

Section 103 Rejections

Claims 31, 32, 38, 39, 41, 42 and 44 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Wannlund in view of U.S. Patent No. 5,741,463 to Sanadi (hereinafter "Sanadi"). Applicants respectfully traverse.

Sanadi discloses a multi-well test plate comprising means for sealing of the wells for preventing cross-contamination of samples. The test plate is therefore provided with a lid and a gasket. Sanadi does not disclose bores having a first opening at a first side and a second opening at a second side nor does Sanadi disclose compacting means for compacting solid state samples in bores of the sample holding body.

Therefore, a combination of Wannlund and Sanadi would not lead to a system or a method according to the application. Thus, independent claim 24 relating to a system, and claim 40 relating to the method, as well as all claims dependent therefrom, are patentably distinct over Wannlund in view of Sanadi.

Summary

Independent claims 24, 40 and 46 include a limitation that the samples are supported by support plugs each support plug being adapted for supporting a sample such that during the spectroscopic or microscopic analysis all exposed surfaces of the samples lie in a single plain. These independent are novel over the prior art of record, including the art concurrently submitted herewith in an Information Disclosure Statement, because none of the documents of the prior art

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discloses support plugs for during the spectroscopic or microscopic analysis supporting a sample in a bore such that all the exposed surfaces of the samples lie in a single plane.

The independent claims are patentably distinct over the prior art of record, including the art concurrently submitted herewith in an Information Disclosure Statement, because due to the fact that exposed surfaces of the samples during the spectroscopic or microscopic analysis lie in a single plane, the need of refocusing the analysis equipment every time a new sample has to be analyzed is eliminated or at least strongly reduced. This significantly reduces the time required for analyses of the samples. (See, Specification, page 7, lines 23-29, and page 2, lines 25-32).

It is noted that Wannlund relates to a test apparatus for performing chemical reactions by controllably mixing reactants. The samples are analyzed during or after the reaction. The grease plugs disclosed in Wannlund are removed when the liquid from the upper reaction cup is transported into the lower reaction cup. The plugs only support the liquid when held in the upper reaction cup, and not while a liquid is analyzed in the lower reaction cup. Furthermore, the plugs disclosed in Wannlund only prevent the liquid in the upper reaction cups from flowing prematurely into the lower reaction cups. In no way is each support plug adapted for supporting a sample such that all exposed surfaces of the samples lie in a single plane.

Therefore, Applicants respectfully submit that independent claims 24, 40 and 46, and all claims dependent therefrom, are patentably distinct. This application is believed to be in condition for allowance. Favorable action thereon is therefore respectfully solicited.

Should the Examiner have any questions or comments concerning the above, the Examiner is respectfully invited to contact the undersigned attorney at the telephone number given below.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account

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No. 08-2461. Such authorization includes authorization to charge fees for extensions of time, if any, under 37 C.F.R. § 1.17 and also should be treated as a constructive petition for an extension of time in this reply or any future reply pursuant to 37 C.F.R. § 1.136.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "John S. Sopko", is written over a horizontal line.

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